IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Crl.Rev.Pet.No. 4428 of 2007()

CRA.459/2007 of ADDL.SESSIONS COURT-II, KOZHIKODE
MC.49/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, PERAMBRA

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REVN. PETITIONER:

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1. ALPHONSA,
W/O. ANTONY,
METHRATT HOUSE,
KOHINOOR, THENHIPALAM P.O.,
MALAPPURAM DISTRICT.

2. C.K. VIRONY,
W/O. VINCENT,
CHERUKULATH HOUSE,
IRINGADANPALLY,
CHEVAYOOR P.O.,
CALICUT.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS:

STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO.4428 of 2007

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Dated this the 12th day of December, 2007.

ORDER

The petitioners, who are the ladies were the sureties of one Rajamma who was an accused in C.C. No. 4/2002 on the file of the Judicial First Class Magistrate-I, Perambra for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The bond amount was Rs.10,000/- each. The petitioners became sureties in Crl.Appeal No. 149/2005 filed before the Sessions Court, Kozhikode by Rajamma challenging the conviction and the sentence against her. Subsequently, criminal appeal filed by Rajamma was disposed of directing her to undergo imprisonment till the rising of the court and to pay a sum of Rs.80,000/- by way of compensation. Rajamma, however, failed to appear before the trial court to receive the sentence. Thereupon, proceedings were initiated against the revision petitioners as M.C. No. 49/2005 by the JFCM-I, Perambra. To the show cause notice issued to them in Form No. 47 of Schedule 2 of Cr.P.C asking them to show cause as to why the bond amount of Rs.10,000/- should not be levied as penalty, they had no explanation to offer except stating that in spite of best efforts they could not locate Rajamma and went on praying for time to produce Rajamma without

any tangible results. Thereupon, the Magistrate imposed the bond amount as penalty and directed that if the penalty was not realised, the sureties shall undergo imprisonment in a civil prison for three months. An appeal preferred by the revision petitioner as Crl. Appeal No. 459/2007 before the Sessions Court, Kozhikode also was not successful. Hence this revision.

2. Having regard to the fact that Rajamma, the accused in C.C. No. 4/2002 continues to be absconding and the petitioners did not have any active or passive role in Rajamma making herself scarce and considering the fact that the petitioners are ladies and in impecunious circumstances, I am inclined to reduce the penalty amount by 50%. Accordingly, each of the revision petitioner is ordered to pay a penalty of Rs.5000/- within one month from today. If the penalty is found to be irrecoverable, they shall undergo imprisonment in a civil prison for three months.

The revision is disposed of accordingly.

V. RAMKUMAR, JUDGE.

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